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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,009	10/14/2003	Michael D. Gerdes	HE 8698US	4282
1688	7590	01/27/2005	EXAMINER	
POLSTER, LIEDER, WOODRUFF & LUCCHESI 12412 POWERSCOURT DRIVE SUITE 200 ST. LOUIS, MO 63131-3615			REIS, TRAVIS M	
		ART UNIT		PAPER NUMBER
				2859

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/685,009	GERDES ET AL.	
	Examiner	Art Unit	
	Travis M Reis	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7, 9, 20-37, 39-43 and 60-67 is/are pending in the application.
 - 4a) Of the above claim(s) 4-8, 29-43, 60 and 65-67 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3, 9, 20-28 and 61-64 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20031014</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. The restriction requirement regarding Groups I, II, III, and IV and Species I and III stated in the last Office action are repeated here and made Final.
2. In response to applicant's arguments that Species I & II are not patentably distinct, these arguments are persuasive and thus Species I and II have been rejoined.
3. Accordingly, claims 1-7, 9, 20-35, 37, 39-43 and 60-67 have been further examined on the merits.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 20-28, & 61-64 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell (U.S. Patent 3888128).

Mitchell discloses a system, and method of using an adjustable mounting flange (10) for mounting a variety of vehicle wheels (19) having different lug patterns on the shaft of a balancing machine (15) which comprises a flange plate (34) having a central bore extending from a front face to a rear face (Figure 2); an adjusting plate (35) disposed adjacent said rear face and coupled to said flange plate for coaxial rotational movement relative to said flange plate (Figure 4); a plurality of slots passing through said flange plate(37); a plurality of slots passing through said adjusting plate(38); a plurality of mounting pins (30), each of said plurality of mounting pins including a guide pin (28) adapted for engagement with said flange plate and a contact tip (31) adapted for engagement with the plurality of wheel lug holes, in

an annular pattern (Figure 4) with identifying indicia (48) being associated with each of said slots; and wherein said plurality of slots in said flange plate and said plurality of slots in said adjusting plate cooperatively define one or more sets of unobstructed passages through said adjustable mounting flange (Figure 4); and wherein each of said unobstructed passages in a set of unobstructed passages is disposed at a common radial distance from an axis of said central bore (Figure 5), said common radial distance associated with a rotational position of said adjusting plate; wherein said plurality of slots passing through said flange plate include at least one set of circumferentially equidistant spaced slots, said slots in said set having a common skewed configuration (Figure 6); wherein a range of rotational movement of said adjusting plate about said central axis corresponds with a range of radial movement of each of said unobstructed passages in said set of unobstructed passages between an inner radial position and an outer radial position (Figure 4).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 & 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell in view of Kraft (U.S. Patent 2270657).

Mitchell discloses all of the instant claimed invention as stated above in the rejection of claims 1, 3, 20-28, & 61-64, including a tapered centering cone (18) configured for axially guided placement on the spindle shaft via a central hole in said centering cone (Figure 2).

Mitchell does not disclose said cone is double tapered and having an identifying indicia.

Kraft discloses a horizontal balance with a centering cone (10) with a multiplicity of tapered grooves/indicia (14)(cols. 2-3 lines 55 through 1-5) indicating each taper of the cone in order that wheels having central openings of various sizes may be tested (col. 2 lines 48-53). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the multiple taperings disclosed by Kraft to the centering cone disclosed by Mitchell in order that wheels having central openings of various sizes may be tested.

8. Claims 4-7, 29-35, 37, 39-43, & 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell in view of Applicant's admission as stated in pages 15 & 16 of Applicant's amendment filed 11/8/04.

Mitchell discloses all of the instant claimed invention as stated above in the rejection of claims 1, 3, 20-28, & 61-64, but does not disclose a plurality of adjacent discrete detent positions configured to receive said mounting pins. However, in view of Applicant's Admission, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add detents to the slots disclosed by Mitchell since these detents have been admitted by applicant to be obvious variants, i.e. not patentably distinct, from the slots of Species I, such as the slots disclosed by Mitchell.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cole discloses a device for measuring car wheels (U.S. Patent 354595). Fancher discloses a center templet (U.S. Patent 575469). Weber discloses a tool for centering sprockets upon vehicle wheels (U.S. Patent 1013911). Leighton discloses a fixture for determining the balance of annular parts (U.S. Patent 1524041). Hutter discloses a wheel balance indicating device (U.S. Patent 2631452). Bateman discloses a wheel aligner for

Art Unit: 2859

automotive vehicles (U.S. Patent 3488857). Mitchell discloses a mount for a wheel balancer (U.S. Patent 3742766). Becher discloses an apparatus for mounting a wheel on a balancer (U.S. Patent 4462253). Beck discloses a universal wheel gauge (U.S. Patent 5174032). Mieling discloses a kit and method of using kit to align wheels of vehicles (U.S. Patent 5471754). Boess discloses an adaptor for fixing a measuring means to a vehicle wheel (U.S. Patent 6138366).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.



Travis M Reis
Examiner
Art Unit 2859

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

tmr
January 24, 2005